

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

JACK E. KAHLO,

Defendant.

CASE NO. 8:08CR158

TENTATIVE FINDINGS

The Court has received the Presentence Investigation Report (“PSR”), the Defendant’s objections thereto (Filing No. 51), and the Defendant’s motion for downward departure (Filing No. 53). The government adopted the PSR (Filing No. 52). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to several paragraphs of the PSR, discussed below.

1. **¶ 9 (number of bedrooms in home)** - the objection is denied as it does not affect the sentencing guideline range and was not raised previously to the probation officer as required.
2. **¶¶ 12 (date), 13 (date), and 15 (substance of Defendant's statement to law enforcement)** - the objections are denied, as they do not affect the guideline range and the Court is not at liberty to change the government's version of the offense.
3. **¶ 44 (date of mother's death)** - the objection is denied as it does not affect the sentencing guideline range and was not raised previously to the probation officer as required.

4. **¶ 61 (forfeiture of computer hard drives and electronic media capable of storing digital images)** - the objection is denied for the reason stated by the probation officer. The Defendant pleaded guilty to Count III (criminal forfeiture of the described property).

The Defendant's motion for downward departure will be heard at sentencing.

IT IS ORDERED:

1. The Defendant's Objections to the Presentence Investigation Report (Filing No. 51) are denied;
2. Otherwise the Court's tentative findings are that the Presentence Investigation Report is correct in all respects;
3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;
4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final;
5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing; and

6. The Defendant's motion for downward departure (Filing No. 53) will be heard at sentencing.

DATED this 22nd day of December, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge